

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Mountain House Community Services District to construct a new separated grade crossing at the extension of Central Parkway in the vicinity of Mile Post 74.8 of the Union Pacific Railroad Company in Mountain House, County of San Joaquin, State of California.

Application 06-03-021
(Filed March 13, 2006)

O P I N I O N**Summary**

This decision grants the Mountain House Community Services District's (District) request for authority to construct the grade-separated highway-rail crossing at Central Parkway over the tracks of the Union Pacific Railroad (UPRR) in an unincorporated area of San Joaquin County. The crossing will be identified as CPUC Crossing No. 001B-74.80-A.

Discussion

The Mountain House Community Services District, the government agency of Mountain House, was formed in 1996. The District sets policies, ordinances and regulations for the benefit of Mountain House residents. The District is considered a dependent district, which means San Joaquin County provides various services for the community.

The District requests authority to construct a new grade-separated highway-rail crossing at the future extension of Central Parkway, as part of the Mountain House Master Planned Community. At build out, Mountain House

will be comprised of up to 16,000 homes and 44,000 residents. Approximately 4000 of the homes will be on the north side of the UPRR right of way, which bisects Mountain House. All of these residents must cross the UPRR right of way to access the I-205 freeway which connects Mountain House to the Bay Area, Tracy, and the I-5 freeway. The bridge will cross both Byron Road and the UPRR tracks with a 300-foot span and will accommodate four lanes of traffic.

There are currently five at-grade crossings at Mountain House; two private crossings and three public crossings. As part of the Mountain House Master Plan, the District indicates it will propose in a separate application that one public and two private at-grade crossings be closed and the two remaining at-grade crossings be relocated and upgraded.

Environmental Review

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, the District is the lead agency for this project and the Commission is a responsible agency. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.²

The District filed a Master Plan Final Environmental Impact Report (MEIR) for the project in September 1994. A Notice of Determination (NOD) filed with the San Joaquin County Clerk on February 8, 2005 reaffirms the continued applicability of the MEIR for this project, of which this grade separation is a part. The Commission reviewed both the MEIR and NOD for the project and believes they are adequate for our decision-making purposes.

With respect to the potentially significant safety, noise and transportation impacts identified in the MEIR that are within the Commission's jurisdiction, the Commission finds that the District adopted feasible mitigation measures to either eliminate or substantially lessen those impacts to less-than-significant levels. We will adopt the District's environmental findings and mitigations for purposes of our approval.

Application 06-03-021 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a highway across a railroad.

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

² CEQA Guidelines, Sections 15050(b) and 15096.

Rail Crossings Engineering Section staff inspected the site of the proposed crossing. After reviewing the need for and safety of the proposed crossing, staff recommends that the requested authority to construct the subject crossing be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3170, dated April 13, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Notice of the Application was published in the Commission's Daily Calendar (CDC) on March 23, 2006. No protests have been received. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3170.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the CDC on March 23, 2006. No protests have been filed.
2. The District requests authority, under Public Utilities Code Sections 1201-1205, to construct a new grade-separated highway-rail crossing at Central Parkway. The crossing will be identified as CPUC Crossing No. 001B-74.80-A.
3. Public convenience, safety, and necessity require the construction of the subject crossing.
4. The District is the lead agency for the project under CEQA, as amended.
5. The Commission is a responsible agency for this project and has reviewed and considered the District's environmental documentation specified in this decision, and finds the documentation adequate for decision-making purposes.

6. The Commission finds that for each potentially significant impact related to safety, transportation, or noise that is within the Commission's jurisdiction, the District adopted feasible mitigation measures to either eliminate or substantially lessen those impacts to less-than-significant levels.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The Mountain House Community Services District (District) is authorized to construct a new grade-separated crossing at its extension of Central Parkway. The crossing will be identified as CPUC Crossing No. 001B-74.80-A.

2. Construction and maintenance costs shall be borne in accordance with an agreement that has been entered into between the District and the Union Pacific Railroad (UPRR) (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

3. Within 30 days after completion of the work under this order, the UPRR shall notify the Commission's Rail Crossing Engineering Section in writing, by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossing and Separations), that the authorized work was completed.

4. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

5. This application is granted as set forth above.

6. Application 06-03-021 is closed.

This order is effective today.

Dated _____, at San Francisco, California.